

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHWESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES PRYOR,

Defendant.

Case No. 15-cr-005048-MDH-1

ORDER

Before the Court is Defendant's Motion to Suppress. (Doc. 18). Defendant asks the Court to suppress any statements made by Defendant and any physical evidence seized from Defendant's vehicle on December 1, 2014. Defendant argues the officers did not have a warrant to stop and detain Defendant or to search his vehicle, and that Defendant did not consent to a search of his vehicle. Defendant further argues he was not advised of his *Miranda* rights before the officer asked him if there was anything in his vehicle. Defendant argues the officer's stop and detention of Defendant was in violation of the Fourth Amendment and therefore all statements he made during that stop and detention must be suppressed. Defendant also contends his statements should be suppressed because he was not given a *Miranda* warning and therefore there was no probable cause to search the vehicle.

The Government argues, conversely, that Defendant was not detained at the time the officers asked him the initial questions, and that even if he was detained at that time, the officers had reasonable suspicion to detain him. The Government contends, under either analysis, a *Miranda* warning was not required and there was no violation of Defendant's constitutional rights.

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, Defendant's motion was referred to the United States Magistrate Judge for preliminary review under 28 U.S.C. § 636(b). The Magistrate Judge reviewed the parties' briefs, held a suppression hearing, and issued a report and recommendation to the undersigned. The report and recommendation finds Defendant's constitutional rights were not violated and therefore his statements, and the fruits derived therefrom, need not be suppressed.

Defendant filed objections to the report and recommendation of the Magistrate Judge. (Doc. 25). Defendant argues Defendant's rights under the Fourth Amendment and Fifth Amendment were violated when the officers detained Defendant and conducted a pat-down search of him. Defendant argues the pat-down search evolved into a formal arrest requiring *Miranda* warnings.

Upon an independent review of the record, applicable law and the parties' arguments before the Court, the Court concurs with the report and recommendation of the Magistrate Judge. Accordingly, the report and recommendation of the United States Magistrate Judge (Doc. 24) is hereby **ADOPTED**, Defendant's objections to the Report and Recommendation are **OVERULED**, and Defendant's motion to suppress (Doc. 18) is hereby **DENIED** for the reasons stated in the Report and Recommendation.

IT IS SO ORDERED:

Date: September 9, 2016

/s/ Douglas Harpool
DOUGLAS HARPOOL
UNITED STATES DISTRICT JUDGE